

**ERIC B. KAVIAR**

ATTORNEY

712 THIRD AVENUE

BROOKLYN, NEW YORK 11232

TEL. (718) 965-6146

FAX (718) 768-5077

December 17, 2010

By E-mail: [sullivanysdchambers@nysd.uscourts.gov](mailto:sullivanysdchambers@nysd.uscourts.gov)

Honorable Richard J. Sullivan  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: Samandarov et al v Kowalewski et al, 1:10-cv-4438 (RJS)

Dear Honorable Sir:

Please accept this letter in response to your Order of November 17, 2010 regarding the above captioned matter requiring the submittal to you of a joint status letter.

Petitioners filed this proceeding in your court seeking to vacate the partial final award on clause construction dated August 13, 2010 from the American Arbitration Association Class and Commercial Arbitration Tribunal under AAA Case # 11-145 J 0246608 by Arbitrator George C. Pratt. The issues raised by petitioners are (A) whether imposing class arbitration on parties whose arbitration clauses are "silent" on that issue was consistent with the Federal Arbitration Act, 9 U.S.C. Section 1 et seq. and (B) whether or not the Arbitrator below (i) exceeded his authority when he failed to construe the parties' arbitration agreement in accordance with applicable law, which they had chosen to govern their agreements pursuant to 9 U.S.C. Section 10 (a) (4) and (ii) whether or not the Arbitrator manifestly disregarded the law in light of *Stoltz-Nielson v AnimalFeeds* 130 S. Ct. 1758 (April 27, 2010).

Since filing the application before your Court the Arbitrator has issued two suspension orders the first dated October 19, 2010, the second dated December 3, 2010. The arbitration remains suspended and I do not have any information that it will become active. Copies of these two suspension orders are attached.

On December 5, 2010 and December 14, 2010 I requested my adversary to participate in the joint letter. To date respondents' attorney has failed to provide input.

Very truly yours,



Eric B. Kaviar

EBK/lk  
Attachments

cc: Marina Trubitsky, Esq.  
By E-mail: [marina.trubitsky@lawcontact.com](mailto:marina.trubitsky@lawcontact.com)

**AMERICAN ARBITRATION ASSOCIATION**  
**Commercial and Class Action Arbitration Tribunal**

In the Matter of the Arbitration between

Re: 11 145 J 02466 08

Tadeusz Kowalewski, Nicholas Klimiuk, Oleg  
Logunovsky, Stanislaw Puchala, individually and  
on behalf of all others similarly situated  
and  
Rudolf Samandarov a/ka Rudy Samandarov  
Group Americar Transportation, LLC  
BC Leasing Corp., and Individual Partners of  
Corporate Respondents

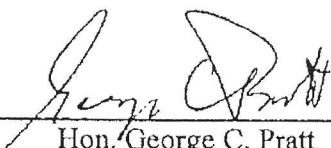
**Suspension Order of the Arbitrator**

I, THE UNDERSIGNED ARBITRATOR, designated in accordance with the parties' arbitration agreement, dated May 26, 2004, do hereby Order as follows:

In accordance with R-52 of the Commercial Arbitration Rules and Rule 11(c) of the Supplemental Rules of Class Arbitrations, the AAA may require the parties to deposit sums for arbitrator compensation and administrative fees in advance of the hearings. The parties were directed to deposit such sums by October 13, 2010. The Association advised the arbitrator that full deposits have not been received.

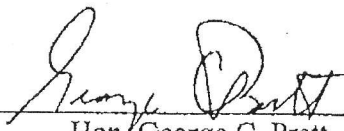
Therefore, in accordance with Rule 11 (c) of the Supplemental Rules of Class Arbitrations, all administration on this matter is hereby suspended. If full deposits are not paid within thirty (30) days, administration of this matter may be Terminated.

10/19/10  
Date

  
Hon. George C. Pratt

I, Hon. George C. Pratt, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Suspension Order of the Arbitrator.

10/19/10  
Date

  
Hon. George C. Pratt

**AMERICAN ARBITRATION ASSOCIATION**  
**Commercial and Class Action Arbitration Tribunal**

In the Matter of the Arbitration between

Re: 11 145 J 02466 08

Tadeusz Kowalewski, Nicholas Klimiuk, Oleg  
Logunovsky, Stanislaw Puchala, individually and  
on behalf of all others similarly situated  
and  
Rudolf Samandarov a/ka Rudy Samandarov  
Group Americar Transportation, LLC  
BC Leasing Corp., and Individual Partners of  
Corporate Respondents

**Second Suspension Order of the Arbitrator**


I, THE UNDERSIGNED ARBITRATOR, designated in accordance with the parties' arbitration agreement, dated May 26, 2004, do hereby Order as follows:

In accordance with R-52 of the Commercial Arbitration Rules and Rule 11(c) of the Supplementary Rules for Class Arbitrations, the AAA may require the parties to deposit sums for arbitrator compensation and administrative fees in advance of the hearings. The parties were directed to deposit such sums by October 13, 2010. The Association advised the arbitrator that full deposits were not received by that date.

Therefore, in accordance with Rule 11 (c) of the Supplementary Rules for Class Arbitrations, all administration on this matter was suspended by Order dated October 19, 2010. Inasmuch as full deposits have not yet been received, the prior Order is extended an additional thirty (30) days from the date of this Order.

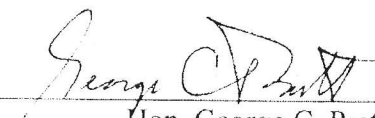
If full deposits are not paid within thirty (30) days, administration of this matter will be Terminated.

12/3/10  
Date

  
Hon. George C. Pratt

I, Hon. George C. Pratt, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Second Suspension Order of the Arbitrator.

12/3/10  
Date

  
Hon. George C. Pratt